

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

UNITED STATES OF AMERICA)	CRIMINAL NO. 6:13-00170
)	
-vs-)	<u>SENTENCING MEMORANDUM</u>
)	<u>AND MOTION FOR BELOW-RANGE</u>
GORDON L. HALL)	<u>SENTENCE AND SELF-SURRENDER</u>

Objections have been filed to the Presentence Report (“PSR”). The Probation agent has responded to the objections in an addendum to the PSR. The government has filed a sentencing memorandum (ECF # 255). This matter is set for sentencing on April 28, 2014. Mr. Hall’s guidelines total offense level is 37, and his guidelines criminal history category is III. The corresponding guideline range for offense level 37 and criminal history category III is 262-327 months. Mr. Hall’s guideline range is 240 months, which is the statutory maximum. In the event Mr. Hall’s objections to the PSR are denied he seeks a sentence below the advisory guideline range, and he requests release on bond to self-surrender.

I.

Sentence Below Guidelines Range

The loss amount figure of more than \$7 million set out in PSR ¶ 49 resulted in a 20 level guideline enhancement. USSG § 2B1.1(b)(1)(K). It is undisputed that this figure is not an actual loss. The defense contends that the use of this figure overstates the criminal culpability of Mr. Hall in comparison to others involved in this case and “typical” wire fraud cases. Defense counsel is informed and believes that coconspirator Lindsey Howell was not assessed this loss

figure in his PSR even though Mr. Howell was supposedly aware of and willing to take advantage of the nature of the “fictitious financial documents” filed in an effort to secure his release on bond. Defense counsel contends that a more reasonable guideline loss figure is between \$2.5 million and \$7 million, which results in an 18 level guideline enhancement. USSG § 2B1.1(b)(1)(J).

An objection has also been noted to the application of the 20 level enhancement for more than 250 victims under USSG § 2B1.1(b)(2)(C). Defense counsel is informed and believes that coconspirator Lindsey Howell, who was directly involved with Ponzi mastermind Ronnie Wilson, did not receive this enhancement in his guidelines calculations. The defense contends that the use of this figure overstates the activities of Mr. Hall in regard to the number of victims affected by his conduct. The application of this enhancement causes unwarranted sentencing disparity between Mr. Hall and others (Lindsey Howell and Benton Hall) involved in this conduct.

This court has the discretion to fashion any sentence it deems to be reasonable and appropriate for Mr. Hall within the requirements of 18 U.S.C. § 3553(a) and is not required to sentence within the advisory guideline range. In the event the court denies the objections to the PSR Mr. Hall contends that a sentence below the advisory range is more appropriate than within the range for the reasons set forth above.

II.

Self-surrender

Mr. Hall has filed an appeal of the magistrate judge’s decision to deny bond. ECF # 248. This matter will also be before the court on April 28, 2014, along with the sentencing hearing.

Mr. Hall requests the court set a reasonable bond and permit him to self-surrender. Based on the totality of the circumstances, the information in the bond appeal, and information presented at the hearing in this matter he is a worthy candidate to be released on bond and self-surrender to the Bureau of Prisons.

III.

Conclusion

Based upon the information presented in this memorandum and as may be further supplemented orally at his sentencing hearing Mr. Hall respectfully submits that under the sentencing factors found in 18 U.S.C. § 3553(a) a reasonable sentence in his case is a sentence below the advisory guidelines, and, in the alternative, that he be permitted to receive a reasonable bond and self-surrender.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
Attorney for the Defendant

By: s/Benjamin Stepp
Benjamin T. Stepp, Federal ID 4301
Assistant Federal Public Defender
75 Beattie Place, Suite 950
Greenville, South Carolina 29601
(864) 235-8714
benjamin_stepp@fd.org

Greenville, South Carolina

April 24, 2014